S.B. CIVIL MISC. APPEAL NO. 1185/2005

Date : 02.03.2006

HON'BLE MR. BHAGWATI PRASAD.J.

Mr. C.R. Jakhar for the appellant

Heard learned counsel for the appellant.

No one has been appearing for the respondent. Even today, no is has appeared. From 10.11.05, on 02.02.06 to 13.02.2006 nobody appeared despite service for filing of power by the learned counsel and to contest the appeal. Learned counsel for the appellants submits that he is prepared to pay a cost of Rs. 5000/- to compensate the respondents for setting aside the ex-parte decree which has been passed without proper service being there. It was only substituted service. The record was called and perused. The service as appears from the record is only by way of publication at the shop of the son of the appellant Amar Singh. According to the learned counsel, Amar Singh is not living with the appellant. That being the position, service is considered to be a doubtful proposition. In that view of the matter, the decree deserves to be set aside on the cost of Rs. 5000/-. Both the appellants will appear before the trial court on 27.03.06. Notices will be issued to the plaintiff to appear the trial court . The cost as proposed by the counsel to the plaintiff in the trial court.

The appeal is disposed of accordingly.

(BHAGWATI PRASAD), J.